



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/597,071	07/10/2006	Horst Schader	69758.000002	5540
21967 7590 12/07/2009 HUNTON & WILLIAMS LLP INTELLECTUAL PROPERTY DEPARTMENT 1900 K STREET, N.W. SUITE 1200 WASHINGTON, DC 20006-1109				
EXAMINER				
CHEN, JOSE V				
ART UNIT		PAPER NUMBER		
3637				
MAIL DATE		DELIVERY MODE		
12/07/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/597,071

Applicant(s)

SCHADER, HORST

Examiner

José V. Chen

Art Unit

3637

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 37-71 is/are pending in the application.
- 4a) Of the above claim(s) 51-68 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 37-50 and 69-71 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/GS-08)
Paper No(s)/Mail Date 07/10/06
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Applicant's election without traverse of group I claims 37-50, 69-71 in the reply filed on 08/31/09 is acknowledged.

It is noted that claims 51-56 were inadvertently omitted from Group II of the restriction. It is further noted that applicant elected Group I, claims 37-50, 69-71. Any inconvenience is regretted.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Note the use of the expression "invention".

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitations of claim 40, 43 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 37-50, 69-71 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to

one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification and claims call for a pallet foot having an angular cross section, open areas, closed bearing areas, stiffening walls. Further, figure 2 is defined as showing an upper side view showing folding lines and the lower side showing lines of cut. Further, figs. 3 showing different wall folding variants. It is not understood how figure 2 shows **upper and lower side views** of a pallet foot since the pallet foot has only one side view. Further, it cannot be determined as to how figures 3 show a horizontal section through the load bearing areas that correspond to the structures in figure 2 and figure 1. Claims 40, 43 further claims side walls with "impressions" or folded grooves running parallel to the load direction. However, again it is not clear as to the definition of such from the figures, specification and claims. Clarification and correction are required.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 40, 43 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The expression "the load direction" has no definite antecedent basis in the claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 37, 38, 40, 43, 45, 47, 48, 49, 50, , 69-71, so far as definite and understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over McIntyre. The patent to McIntyre teaches structure substantially as claimed, so far as definite, including a cardboard tube (fig 1A) having an angular cross-section, the cardboard tube has open areas providing a transverse passage through the pallet feet and having closed load-bearing areas (figs. 2-3), in which each of the closed, load-bearing areas is subdivided by stiffening walls into a plurality of chambers and in which the stiffening walls are formed from inwardly folded side walls of the cardboard tube, characterized in that the cardboard tube is made from wound paper layers or wound recycled paper layers, the cardboard tube has a quadrangular or octagonal cross-sectional shape. The use of wound cardboard and "impressions" are commercially available and well known in the art. To use such interchangeable structure, such as wound, honeycomb corrugation would have been obvious and well within the level of ordinary skill in the art since such structures would perform as expected and would have been a reasonably

predictable result, thereby providing structure as claimed, so far as definite.

Claim 39, so far as definite, is rejected under 35 U.S.C. 103(a) as being unpatentable over McIntyre as applied to the claims above, and further in view of Preisler. The patent to McIntyre teaches structure substantially as claimed, so far as definite, the only difference being that a pultrusion process or coating to provide protection and rigidity is not discussed. However, the patent to Priesler I teaches the use of providing reinforcement including pultrusion to be old. It would have been obvious at the time of the invention to modify the structure of McIntyre to include a treated structure, as taught by Priesler since such structures are conventional structures used in the same well known purpose and would have been reasonably predictable, thereby providing structure so far as definite.

Claims 41, 42, 44, so far as definite are rejected under 35 U.S.C. 103(a) as being unpatentable over McIntyre as applied to the claims above, and further in view of Oravez. The patent to McIntyre teaches structure substantially as claimed as discussed above including closed areas, the only difference being that there are not specifically three or four chambers. However, the patent to Oravez (figs 3-5) teaches the use of providing a plurality of chambers in a folded structural support to be old. It would have been obvious and well within the level of ordinary skill in the art at the time of the invention was made to modify the structure of McIntyre to include three or four "chambers", as taught by Oravez since such structures are conventional alternative

structures used in the same well known purpose and would have been reasonably predictable, thereby providing structure so far as definite.

Claim 46 , so far as definite, is rejected under 35 U.S.C. 103(a) as being unpatentable over McIntyre as applied to the claims above, and further in view of Voss-Schrader et al. The patent to McIntyre teaches structure substantially as claimed as discussed above including closed areas , the only difference being that there are not "windows" to allow for reinforcement structure to be connected. However, the patent to Voss-Schrader et al teaches the use of providing a plurality of "windows" to allow for reinforcement structure connection to be old. It would have been obvious and well within the level of ordinary skill in the art at the time of the invention was made to modify the structure of McIntyre to include "windows" as a connection structure, as taught by Voss-Schrader et al since such structures are conventional alternative structures used in the same well known purpose and would have been reasonably predictable, thereby providing structure so far as definite.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references to Baechl et al, Achermann et al, Abrams, Bartels, Melli, Johnston et al, Kilpatrick et al, Young et al, Perkins, Pistner et al, Preisler teach structure similar to applicant's..

Any inquiry concerning this communication or earlier communications from the examiner should be directed to José V. Chen whose telephone number is (571)272-6865. The examiner can normally be reached on m-f,m-th 5:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. Allen Shriver can be reached on (571)272-6698. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

José V. Chen
Primary Examiner
Art Unit 3637

/José V. Chen/
Primary Examiner, Art Unit 3637